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REMARKS

The Examiner has rejected Claims 1-29 under 35 U.S.C. 102(e) as being anticipated by Boker (U.S. Patent Application No. 2003/0074606). Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove to each of the independent claims. Specifically, applicant's has amended each of the independent claims to incorporate the subject matter of Claim 24.

With respect to independent Claims 1, 11, 21 and 22, the Examiner has relied on paragraphs [0119], [0130] and [0149] in Boker to make a prior art showing of applicant's claimed "identifying a plurality of templates provided based on user input" (see the same or similar, but not necessarily identical language in each of the independent claims). Still with respect to the independent Claims 1, 11, 21 and 22, the Examiner has relied on paragraphs [0122] and [0158] in Boker to make a prior art showing of applicant's claimed "populating the templates with the network traffic information."

Applicant respectfully asserts that it appears the Examiner has relied on two different items in Boker to meet applicant's claimed "templates" and the claimed functionality associated therewith. First, the Examiner has relied on Boker's disclosed load tests that are "defin[ed] or configur[ed]...[using] various parameters that are specified," to meet applicant's claimed templates (see paragraphs [0119], [0130] and [0149]). Then, the Examiner has relied on Boker's disclosed "web pages...[that are] populated with sample user, project and configuration data" where one of such web pages includes a "Load Test Results page for a finished test run" (see paragraphs [0122] and [0158]-emphasis added).

The Examiner is reminded that the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). Further, the elements must be arranged as required by the claim. Thus, since the Examiner has relied on both Boker's load tests and Load Test Results web page to meet applicant's claimed "templates," the above criteria

has simply not been met. Such <u>different</u> items in Boker are each equipped with <u>separate</u> functionality and are thus incapable of meeting applicant's claim language, particularly as arranged in the claim.

Specifically, Boker's load tests are <u>not themselves</u> "populat[ed]...with the network traffic information," as applicant claims (see the same or similar, but not necessarily identical language in each of the independent claims), but instead are merely used to send "URL requests or other messages to the target system 102, and...[to <u>monitor</u>] responses thereto," thus testing a load capable of being handled by the target system (see paragraph [0089]-emphasis added). Clearly, such load tests do not meet applicant's claimed templates when read in context.

Applicant also points out that although the <u>results</u> web pages are populated with results of the load tests (see paragraph [0158]), such results web pages are not "provided based on user input," as claimed by applicant. Thus, Boker's disclosed results web pages also do not meet applicant's claimed templates when read in context. Simply nowhere does Boker specifically teach "identifying a plurality of templates provided based on user input" where "the templates [are populated] with the network traffic information," as specifically claimed by applicant (see the same or similar, but not necessarily identical language in each of the independent claims).

With respect to independent Claims 23, applicant respectfully asserts that for substantially the same arguments presented above, Boker does not meet applicant's claimed "identifying templates in the parameter file" and "populating the templates utilizing network traffic information retrieved in response to the querying." Specifically, applicant again points out that paragraphs [0131] and [0153-0157] along with Figures 7 and 8, as relied on by the Examiner, only disclose load tests, but <u>not</u> that such load tests are <u>populated</u> "with the network traffic information," as specifically claimed by applicant. Again, applicant points out that the load tests are only used to send "URL requests or other messages to the target system 102, and...[to monitor] responses thereto," thus testing a load capable of being handled by the target system (see paragraph

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[0089]). Again, simply nowhere does Boker teach that the load tests are populated "with the network traffic information," as applicant claims, especially since Boker merely teaches load tests that monitor responses to loads placed on a target system.

Still yet, with respect to each of the independent claims, the Examiner has relied on Figure 7 and paragraph [0183] in Boker to make a prior art showing of applicant's claimed technique "wherein the templates are generated based on a plurality of user-configured parameters selected from the group consisting of network portions to be reported, a format of the reporting, and a time or period." Applicant respectfully asserts that such excerpt only discloses displaying information, but not that "the templates are generated based on a plurality of user-configured parameters," in the context claimed by applicant (emphasis added).

The Examiner is again reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Boker reference, as noted above. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has substantially included the subject matter of Claim 24 into each of the independent claims.

With respect to the subject matter of Claim 24, as presently incorporated into each of the independent claims, the Examiner has relied on Figure 7 and paragraphs [0182-0189] in Boker to make a prior art showing of applicant's claimed technique "wherein the templates are generated based on a plurality of user-configured parameters including network portions to be reported, a format of the reporting, a time or period, where the

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network traffic information comes from, what type of network traffic information is used, and to what location the network traffic information is written."

First, applicant respectfully asserts that Figure 7 only shows a Load Test Run page where a user can monitor and control a load test. Applicant notes that Boker only specifically discloses that a "user can specify or adjust the number of Vusers that are running each script" (see paragraph [156]). Clearly, such minimal control does not rise to the level of specificity of applicant's claimed "templates [that] are generated based on a plurality of user-configured parameters including the network portions to be reported, the format of the reporting, a time or period...," as claimed (emphasis added).

In addition, applicant respectfully asserts that Boker's disclosed Test Runs Page, Error Page, and General Settings Page (paragraphs [0182-0189]) only relate to web pages that display information associated with the load tests. Applicant notes that Boker only teaches using such web pages to "specify the type of host...to be deallocated...from a test run," "specify a set of authorized target IP addresses," "balance the load between hosts," and "specify the IP address of an optional 'listener' machine that collects server monitor data from monitoring agents." Cleary, such teaching in Boker does not even suggest "network traffic information [that] comes from, what type of traffic information is used, and to what location the network traffic information is written" where "the templates [are populated] with such network traffic information," in the context claimed by applicant (see the same or similar, but not necessarily identical language in each of the independent claims-emphasis added).

Since the Boker reference fails to teach or even suggest all of applicant's claim language, especially in view of the amendments made hereinabove to each of the independent claims, a notice of a allowance or proper prior art showing of such claim language is respectfully requested.

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Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P067/01.266.01).

Respectfully submitted,
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